



## CITY OF SAN JOSE, CALIFORNIA

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**SAN JOSE  
ELECTIONS COMMISSION**  
Fred de Funiak, Chair  
Jang Badhesha  
Michael Smith

### SAN JOSE ELECTIONS COMMISSION MEETING MINUTES April 9, 2008

#### I CALL TO ORDER

The Members of the San José Elections Commission convened at 5:35 p.m. in Room W-242 of City Hall, 200 E. Santa Clara Street, San José, CA 95113.

PRESENT: COMMISSIONERS Badhesha, Smith and de Funiak

ABSENT: COMMISSIONERS None; two seats vacant

STAFF PRESENT: Senior Deputy City Attorney Lisa Herrick  
City Clerk Lee Price  
Deputy City Clerk Michelle Radcliffe

#### II APPROVAL OF MINUTES

A. Minutes of March 10, 2008 were approved.

#### III REPORT OF THE CHAIR

Document Filed: E-mail correspondence from Commissioner Tony Ventura dated March 27, 2008 regarding his resignation from the Commission

Chair de Funiak reported that Commissioner Ventura resigned from the Commission. City Clerk Lee Price reported that the City Council did not make an appointment to fill the current vacancy and stated that the City Clerk's Office will continue to recruit.

#### IV DISCUSSION ITEMS

##### A. Status Report by Independent Investigator Roberto Rivera

Chair de Funiak reported that Mr. Rivera will not be attending the meeting due to family obligations and stated that he had indicated in an email that he would submit a report to the City Clerk's Office on Monday, April 14, 2008.

##### B. Update on Elections Audit Consultant

Document Filed: Proposal from MGT of America, Inc. dated April 4, 2008 regarding the Elections Audit Consultant

Senior Deputy City Clerk Lisa Herrick presented an overview of the conference call she had with Linus Li and Celina Knippling with MGT of America, Inc. Discussion was held regarding narrowing the scope of the audit. Chair de Funiak directed the City Clerk's Office to contact MGT of America, Inc. and to ascertain their availability for attending a special meeting later this month. The subcommittee (Smith/Badhesha) agreed to formulate some questions regarding the scope.

##### C. Discussion regarding elections of Chair and Vice Chair on commissions (SJMC Section 2.08.070)

Document Filed: Memorandum from City Clerk Lee Price dated April 4, 2008 regarding Municipal Code regulations Chair and Vice Chair

Chair de Funiak suggested that the Commission elect a Chair and Vice Chair on a yearly basis. City Clerk Lee Price advised that the Commission bylaws do not specify an election every year but stated that they could be amended to state.

Motion: Upon motion by Commissioner Smith, seconded by Commissioner Badhesha, and unanimously passed, the Commission directed the City Attorney's Office to prepare an amendment to the resolution to reflect that the Commission will elect a Chair and Vice Chair annually at the first meeting after March 1<sup>st</sup>. Vote: 3-0-0.

D. Discussion regarding Instant Run-Off Voting

Documents Filed: 1) Memorandum from City Clerk Lee Price dated April 4, 2008 providing an update on City Council Referral to the Elections Commissions on Instant Runoff Voting; 2) Memorandum from City Attorney Richard Doyle dated March 24, 2008 regarding filling Council Office vacancies; and 3) Pamphlets submitted by Steve Chessin, President of Californians for Electoral Reform

City Clerk Lee Price and Senior Deputy City Attorney Lisa Herrick summarized the Mayor's Transitional Team's recommendation regarding instant run-off voting, outlined the current challenges and discussed several options for implementation (i.e; charter change, ordinance amendment). Discussion ensued.

Public Comment: Steve Chessin, President of Californians for Electoral Reform, spoke in support of instant run-off voting in San José and encouraged the Commission to urge Council to adopt an enabling ordinance providing for instant run-off once the technology is available.

Councilmember Pierluigi Oliverio spoke in support of instant run-off voting in San José.

The Commission agreed to revisit this issue in one year or sooner if there is further interest or new development.

E. Discussion relating to the attorney representative on the Elections Commission and consideration of a recommendation to the City Council that membership provisions of the ordinance establishing the Elections Commission be amended to delete the requirement that one member of the Commission be an attorney-at-law

Document Filed: Memorandum from City Clerk Lee Price dated April 4, 2008 recommending to the City Council to eliminate the special eligibility requirement that one member of the Elections Commission be an attorney-at-law.

Motion: Upon motion by Commissioner Smith, seconded by Commissioner Badhesha, and unanimously passed, the Commission authorized the City Clerk to move the recommendation forward to Council. Vote: 3-0-0.

F. Update on June 2008 Municipal Election

Document Filed: City of San José list of confirmed candidates for the June 3, 2008 election

City Clerk Lee Price provided copies of the candidate roster for Districts 2, 4, 6, 8 and 10 in the June 3, 2008 election.

V MEETING SCHEDULE

A Special Meeting will be scheduled for either April 21<sup>st</sup> or 28<sup>th</sup> for the purpose of interviewing principals of MGT of America, Inc.

The next Regular Meeting was scheduled to Wednesday, May 14, 2008 at 5:30 p.m.

VI PUBLIC COMMENT

Steven Chessin suggested the Commission observe the expenditures and tenor of campaigns, particularly if there is a run-off in November 2008.

Chair de Funiak requested that Item V on the agenda (Meeting Schedule) be expanded to add "Future Agenda Items", beginning next month.

VII ADJOURNMENT

The meeting adjourned at 6:48 p.m.

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FRED DE FUNIAK, CHAIR

ATTEST:

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LEE PRICE, MMC  
CITY CLERK and SECRETARY TO THE COMMISSION